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December 28, 2023

Via ECF:

The Honorable Lewis J. Liman, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Vilella v. Pup Culture LLC et al*
Case No. 23-cv-02291

Dear Judge Liman:

We are counsel to Plaintiff in the above-referenced matter. We write jointly with Defendants pursuant to this matter's Case Management Plan to provide a status update on this matter prior to the January 4, 2023, status conference.

I. All Existing Deadlines, Due Dates, and/or Cut-Off Dates

Below is a list of the current existing discovery deadlines:

- Requests to Admit must be served on or before March 15, 2024.
- Depositions must be completed on or before April 30, 2024.
- Fact discovery must be completed on or before April 30, 2024.

As expressed during the parties' initial conference, discovery dates for potential expert discovery, which Plaintiff may require for purposes of conducting estimations of potential class member's damages, are to be determined upon the certification of a Rule 23 class.

The parties anticipate having to extend the fact discovery deadline, due to delays in discovery exchanges detailed below, delays caused through the substitution of counsel, and for purposes of providing time to fully conduct discovery as to the claims of those collective plaintiffs who are currently opting into the action. The timing and length of this extension will be better evaluated once the parties have a complete picture of the total number of collective plaintiffs in this matter. To date, 6 collective plaintiffs have returned opt-in forms and, as the opt-in period ends on February 3, 2024, Plaintiff anticipates further opt-ins to this matter.

II. Current Outstanding Motions

No motions are currently outstanding.

III. Discovery Status

On December 8, 2023, the Plaintiff agreed to stay this matter for 20 days, until today December 28, 2023, to permit incoming counsel time to review and familiarize himself with this

matter's file and case history. Now that the stay has been lifted, the parties intend to continue pursuing outstanding discovery, including the discovery listed below.

Currently, the sampling of class documents Ordered by the Court remains outstanding. As the Court is aware, on September 28, 2023, the Court entered an Order granting Plaintiff's request for a sampling of class records. On November 1, 2023, Defendants provided the Class List for this matter. Pursuant to Court Order and agreements between the parties, Defendants were to provide timesheets and paystubs for a 3 month period (the employee's first 3 months) for a 20% sampling selected by Plaintiff. Plaintiff provided her selected sampling the following day, November 2, 2023.

It has been 90 days since the Court Order granting Plaintiff's request for class sampling; however, due to Defendants' difficulties in collecting records and Defendants' substitution of new counsel, the previously Ordered Class discovery is expected to be produced in the new year, by January 15, 2024.

In addition to the above document discovery, Plaintiff anticipates requiring further discovery for those individuals who have recently joined this action pursuant to the collective notice mailed-out in this matter. On November 17, 2023, the Court granted Plaintiff's motion to conditionally certify a collective. On December 4, 2023, Plaintiff received the Court Ordered collective list from Defendants and, on December 5, 2023, mailed out notice to the same. As Plaintiff's office has received 6 consents to become a party, our office anticipates receiving further consents to join prior to the opt-in period's end, February 3, 2023.

Both parties are also in the process of scheduling their previously noticed depositions.

IV. Settlement Discussions

Plaintiff and Defendants, through their prior outgoing counsel and prior to Mr. Ferdinand's substitution, reached a settlement agreement as to Ms. Vilella's claims.

Mr. Ferdinand is currently evaluating prior communications but indicated that he will be opposing the agreement made by Defendants through prior counsel. Should that be the case, Plaintiff anticipates making a motion to enforce.

V. Anticipated Length of Trial

The parties previously estimated trial length of five days remains unaltered.

VI. Anticipated Summary Judgment Motion and Ancillary Issues

Plaintiff anticipates moving for Summary Judgment. Defendants reserve the right to cross-move Summary Judgment but require further evaluation of the case materials. Additionally, Plaintiff anticipates making a motion for certification of a Rule 23 class once in receipt of class documents and after having conducted a deposition of Defendants' corporate representatives using those documents.

* * * * *

We thank the Court for its consideration.

Respectfully submitted,

/s/ C.K. Lee

C.K. Lee, Esq.

cc: all parties via ECF